

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

PARTIAL TRANSCRIPT OF IMPOSITION OF SENTENCE
(Final Portion of Hearing - Public Proceedings)

BEFORE THE HONORABLE TIMOTHY M. BURGESS, DISTRICT JUDGE

September 18, 2018; 1:08 p.m.

Anchorage, Alaska

FOR THE GOVERNMENT:

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Transcript Produced from the Stenographic Record

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

3 UNITED STATES OF AMERICA,)
4 Plaintiff,)
5 vs.) CASE NO. 3:17-cr-00166-TMB
6 DALTON NORMAN,) 3:17-cr-00167-TMB
7 Defendant.)

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Transcript Produced from the Stenographic Record

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

3 UNITED STATES OF AMERICA,)
4 Plaintiff,)
5 vs.) CASE NO. 3:17-cr-00165-TMB
6 JOSIAH WHITE,)
7 Defendant.)

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1 (Call to Order of the Court at 1:08 p.m.)

2 (Proceedings took place that are not included
3 in this Partial Transcript, after which, proceedings
4 continued as follows:)

5 DEPUTY CLERK: All rise. His Honor, the Court,
6 the United States District Court for the District of
7 Alaska is again in session.

8 Please be seated.

9 THE COURT: Have a seat everybody. Sorry, my
10 apologies. So we -- what I would like to do is hear
11 from the parties as to your recommendation as to an
12 appropriate sentence, taking into consideration the
13 factors that are identified in 18 United States Code,
14 Section 3553(a).

15 What I would like to do is give you an idea of
16 what I think is probably the appropriate result, and
17 then you can convince me I'm right or wrong as you go
18 forward, but I think it's valuable for Counsel to
19 understand sort of how I view the case to help inform
20 your comments.

21 So again, you know, the 34 -- the 3553(a)
22 factors that I think are implicated here are: One, the
23 sentence to reflect the seriousness of the offense, and
24 as we heard from the testimony today, just how serious
25 the offenses in both cases were. So I think that has

1 been established in the evidence that's been presented
2 to the Court.

3 I think deterrence of criminal conduct is also
4 important. These are obviously very difficult cases to
5 investigate, and it's important that there are
6 consequences for this type of conduct. So I think, you
7 know, the deterrence is important.

8 I think protecting the public from further
9 crimes of each of the defendants is also an important
10 consideration. I'll tell you my initial analysis is I
11 don't think it's as important in this case. I think
12 they are incredibly young, and I think they have shown
13 indications that they are willing to change their ways
14 going forward. So I think that's of a less concern to
15 me.

16 And then, obviously, restitution is going to be
17 an important factor in this case. So taking those
18 factors into consideration, I think that something other
19 than a jail term is appropriate in this case. Again, I
20 think these are very young defendants, they have a lot
21 of opportunities ahead of them if they can focus their
22 energy in the right way, their energy and their talent.

23 So I do think a probationary sentence is
24 appropriate for a couple of reasons. One is I think
25 when I look at those 3553(a) factors I listed, I think

1 it argues for a probationary sentence rather than a jail
2 sentence.

3 The other advantage is this: I can be assured
4 that their behavior will conform to societal norms for a
5 longer period if they are on probation than if they are
6 on supervised release. Supervised release is limited to
7 three years. Probation is five years.

8 And more importantly, you know, the Government
9 has probably heard me make reference to this, and I know
10 Mr. Curtner has heard me make reference to this before,
11 but they have the sort of Damocles hanging over their
12 head for that five-year period.

13 That means if you don't behave and you engage
14 in this type of behavior in the future, you will be back
15 in front of me, and you're looking at the same potential
16 sentence you were looking at today. So I think there is
17 -- I think there is a great incentive to the defendants
18 to do the right thing and not violate in the future.

19 So for those reasons, I do think that a
20 probationary sentence is more appropriate in this case
21 than a term of imprisonment. That's my initial read on
22 the case.

23 So I'll first hear from the Government, then
24 I'll hear from each of the defense counsel, if there is
25 anything anybody wants to add, and then I'll hear from

1 the defendants if there is anything they want to say.

2 MS. PELKER: Thank you, Your Honor. I think
3 what we have here really is a unique circumstance and
4 that is what's leading the Government to not oppose the
5 probation officer's recommendation of probation. And
6 that's particularly in light of the defendants'
7 extensive cooperation and what's outlined in the
8 Government's motion for a downward departure pursuant to
9 5K1.1.

10 The Government would emphasize here though that
11 this was incredibly severe conduct and that absent that
12 cooperation, the Government would be asking for a period
13 of incarceration here.

14 We have defendants who certainly were youthful
15 offenders with no criminal history. They did accept
16 responsibility, which were all significant mitigating
17 factors, but they don't excuse the underlying conduct
18 where we have the development of the Mirai botnet that
19 was a massive internet of things, botnet of the sort
20 that the Government at that point and security
21 researchers had never seen before, that took advantage
22 of very novel vulnerabilities to infect hundreds of
23 thousands of devices, including devices of victims here
24 in the District of Alaska.

25 And the defendants used those cyber skills that

1 we're hopeful will help them become positive
2 contributors to society in this case to build this
3 botnet and then to launch devastating attacks against
4 victims, both for financial gain as well as out of
5 personal animosity.

6 And then even after the defendants learned that
7 the FBI was onto them, they went on to continue their
8 criminal activity in developing and building this
9 clickfraud botnet, again, using their incredible talents
10 that they have unfortunately been able to hone over
11 years of criminal activity.

12 The Government is very encouraged that the
13 defendants appear to be on a very positive path toward
14 rehabilitation here. The Government would like to see a
15 sentence that's crafted to support that sort of
16 rehabilitation, but the Government does posit that five
17 years of probation is appropriate to allow for the
18 extended supervision and the period of supervision that
19 the Court referenced.

20 The additional 2500 hours here will address not
21 just the severity of the defendants' underlying criminal
22 activity that they are being sentenced for, but also we
23 hope to reduce that chance of recidivism. The
24 2500 hours amounts to about ten hours a week. We would
25 like that to be defined to consist of work by, for or

1 through the FBI.

2 THE COURT: You asked for 2500 hours?

3 MS. PELKER: 2500 hours of community work
4 service, which we recognize is a sizeable amount of time
5 but, given that it's extended out across the five years,
6 amounts to about ten hours a week, and would allow the
7 defendants to continue the type of work they have been
8 doing and that we detailed in our filings for the FBI
9 and benefiting cyber security researchers to date.

10 Here this will, in addition to the supervision
11 that's always already going to be provided by the
12 probation officer, it will allow the defendants to
13 continue their work with the FBI, who is going to be an
14 added check on any potential inclination by the
15 defendants to return to their previous illicit
16 activities.

17 We do believe that there is an ongoing
18 obligation to protect the public here. Unfortunately,
19 the defendants, in returning back to the clickfraud
20 botnet after developing and building Mirai, have shown
21 that they do have an inclination to engage in this type
22 of criminal activity.

23 We definitely have seen that since they have
24 agreed to cooperate with the Government that they have
25 engaged in extensive cooperation that's been incredibly

1 valuable, but we want to see them on a path to continue
2 down that road.

3 THE COURT: All right. Thank you very much.

4 Well, you look like you're next in line,
5 Mr. Curtner.

6 MR. CURTNER: Well, Judge, first of all, let me
7 say I think you're right, and so normally I would spend
8 more time --

9 THE COURT: Telling me I'm wrong?

10 MR. CURTNER: No, in advocating for what I
11 think is a proper sentence, but I think it's very clear
12 the whole picture that's been presented to the Court
13 that probation is appropriate for Mr. White.

14 He is obviously a young and brilliant young man
15 as far as computers are concerned. And I think he had a
16 tremendous lapse in judgment. I think he recognizes
17 that now. And it's been a learning experience for him,
18 and so I really don't think you'll ever see him again.
19 And I think he's certainly on the right path, and so I
20 think probation is the appropriate sentence in this
21 case.

22 THE COURT: All right.

23 Mr. White, is there anything you want to say?
24 You don't have to say anything, but if there is anything
25 you want to say, this is your opportunity.

1 DEFENDANT WHITE: No, Your Honor.

2 THE COURT: Okay.

3 MR. STAHL: Thank you, Your Honor. Obviously
4 we were one of those extensive lengthy sentencing
5 submissions you referred to, so I rely --

6 THE COURT: It's in a binder actually.

7 MR. STAHL: That's how I like to go.

8 Your Honor, obviously, we agree with both the
9 Government and probation department and the PSR for five
10 years of probation.

11 I would add, because of Mr. Jha's unique
12 circumstances of school and work, and I'll explain that
13 in a moment, that I ask Your Honor to waive the home
14 confinement or a curfew provision, and it's because of
15 the following:

16 As you know from our submission, Mr. Jha is in
17 the School 42, and it's not the typical university
18 setting where there is day classes or evening classes.

19 THE COURT: I thought it was all online.

20 MR. STAHL: No, no, he's actually in the Bay
21 area in a dormitory. In addition to that they work
22 their own hours in the computer lab in the school,
23 Mr. Jha is also an RA. And he's in the dorm of
24 400-some-odd students, and he is tasked at all hours of
25 the day and night to go out and to go to different areas

1 of the dorm when students lock themselves out, when they
2 have other issues, computer issues, and all sorts of
3 things that go on with young people being forgetful and
4 things.

5 So to have him under a curfew or electronic
6 monitoring, some type of system where he would be in his
7 room for particular hours, would be impractical. I have
8 discussed this with the Government. I don't know if
9 they still take the position that they did in the
10 sentencing memo, but I think in his circumstances, it is
11 impractical.

12 And quite frankly, it's not necessary. Mr. Jha
13 has been not only working extensively with the
14 Government for the past year plus, he's also been out at
15 the school, as Your Honor knows, for a considerable
16 period of time and has had no issues at all with his
17 computer use. It's an advanced course.

18 He's not only an RA there, but he is one of the
19 trusted members of the school that has solved the
20 computer issues for what is an advanced computer school
21 and has received recognition from the school for solving
22 their network and other problems.

23 So I don't disagree with the five years
24 probation. I don't disagree with the hours of community
25 service. I simply would ask the Court to waive any

1 provision about a curfew or some type of monitoring
2 based upon his situation right now.

3 THE COURT: Let me stop you for a second.

4 What's the Government position on the --

5 MS. PELKER: I believe we would defer to the
6 Court to the extent it would impact the defendant's
7 ability to continue with his educational
8 responsibilities.

9 THE COURT: Do you feel the same way for all
10 three defendants, or I mean, what if we just took an
11 incremental approach and not impose the home
12 confinement, the GPS and home confinement at this point,
13 as long as they are pursuing their community service,
14 pursuing educational opportunities or work, any
15 combination of those things.

16 If there needs -- if for some reason they end
17 up violating the Court's trust and we need to tighten
18 the conditions, you can always seek a modification of
19 supervision.

20 MS. PELKER: That's fine with the Government.

21 THE COURT: So I think we have taken care of
22 that for all three defendants.

23 MR. STAHL: Thank you, Judge. And just last,
24 we don't take any issue with the restitution number that
25 has been arrived at.

1 And I would just ask, based upon the
2 restitution, based upon Mr. Jha as a full-time student,
3 he has a part-time job now, that you would waive any
4 fine.

5 THE COURT: I'm not going to impose any fine.

6 MR. STAHL: Then I will sit down.

7 THE COURT: Thank you.

8 Mr. Jha, is there anything you would like to
9 say? Again, you don't have to say anything, but if
10 there is anything you would like to say, this is your
11 opportunity.

12 DEFENDANT JHA: Yes, Your Honor. I realize
13 we're all here because of me and the mistakes that I
14 made. I'm fully sorry for my actions, and I apologize
15 to the people and businesses that were impacted by them.

16 I'm sorry for the family, friends for putting
17 them in trouble with the FBI. I'm sorry for the attacks
18 against Rutgers and apologize to the students and
19 faculty that were affected.

20 I didn't think of them as real people because
21 everything I did was online in a virtual world. Now I
22 realize I have hurt real people and businesses and
23 understand the extent of damages I did.

24 What started off as a small mistake continued
25 down a slippery slope to a point where I am ashamed to

1 admit what I have become. I had not stopped to consider
2 the damage that my action was causing.

3 I have hurt my parents, my family, my friends.
4 I lied to them and broke their trust. I want to say I'm
5 really sorry to my mother, my father, and my family and
6 friends for putting them through this.

7 Two years ago when I first met Special Agent
8 Elliott Peterson, I was an arrogant fool believing that
9 somehow I was untouchable. When I met him in person for
10 the second time, he told me something that I'll never
11 forget: "You're in a hole right now. It's time you
12 start digging."

13 Looking up from my hole, I came to realize just
14 how far I had fallen. At that point, I was at a
15 crossroads in my life. I could choose to ignore the
16 consequences of my actions, or I could face my situation
17 head on and start my journey back up.

18 The first step to doing right was being open
19 and honest with the transgressions. Only then would I
20 be able to start making changes in my life. Otherwise,
21 I will always have something to hide.

22 This transparency has allowed me a fresh start
23 in life from assisting the FBI in several cases to
24 attending school, to making real friends and holding
25 down a job in a field I like.

1 I have continued to use these skills for the
2 betterment of society and to start giving back some of
3 what I have taken. I cannot change the past and have to
4 live with the consequences of those actions. I take
5 responsibility for my mistakes, and, once again, say
6 sorry to all the people that were affected.

7 I'd also like to thank my family, my friends
8 and Agent Peterson for helping me through this. I know
9 that rebuilding trust is a monumental task, one that I
10 hope to rise up to, starting with the changes I have
11 already made in my life.

12 THE COURT: Thank you very much.

13 MR. STAHL: Thank you, Your Honor.

14 THE COURT: Thank you. Okay.

15 MR. NESBETT: As with the others, Mr. Norman
16 also agrees with the proposed sentence in this case, and
17 will also, to a large extent, rest on all of the
18 extensive briefing we all have done in this case.

19 I'm sure the Court has read all of it. And one
20 of the issues that was brought up earlier were his
21 objections to the PSR. It's very important for
22 Mr. Norman, throughout all of the time that we have
23 spent together discussing the case, it has been vitally
24 important for Mr. Norman to make sure that the Court
25 understands that his role in the Mirai virus came in at

1 a later date chronologically.

2 It is very important that I make sure to
3 emphasize that with the Court, that he came in in
4 September, that his role was limited to the extent that
5 he didn't profit from it, and he didn't draft the code,
6 nor was -- and he was actively discouraging the others
7 from releasing the code virus.

8 He says all of that in order to put a fence
9 around, in his own mind, his role in that offense, not
10 in any way to subtract from his responsibility for what
11 happened. It's really important that I distinguish that
12 and I help him distinguish that. But for his own sense
13 of integrity, it is important I pointed that out to the
14 Court.

15 And the other issue I want to emphasize from
16 the briefing was that the length of time that all three
17 defendants in this case, including Mr. Norman, had been
18 working with the FBI on this establishes a very
19 significant track record of credibility and trust with
20 the FBI. That is very different from a typical
21 cooperation type of environment where you come in for a
22 debrief, for example, and you meet once or twice with
23 the agents.

24 I think this sentence helps capture that
25 history, which in turn I think emphasizes the likelihood

1 that they will not be back and that recidivism is not an
2 issue that we need to worry about in this case.

3 And finally, one issue that I discussed at
4 length, or at least mentioned in my briefing and also
5 attached some accompanying documents to the briefing,
6 was having to do with Mr. Norman's difficulty in speech,
7 and this is related in some ways to his conduct in this
8 case and his activity in computers.

9 But as a result of those disabilities, he has
10 asked that I read a letter to you. It's not because
11 he's nervous at public speaking necessarily. It's
12 because he has a disability that prevents him from being
13 able to speak to the Court, one of the reasons he was
14 having a difficult time even answering yes or no
15 questions to the Court earlier.

16 I would like to read that letter. Again, this
17 is something to supplement what he has submitted
18 already.

19 "Your Honor, I would again like to express my
20 remorse for my actions. I now have to move forward with
21 my life as a convicted felon. I just want everyone in
22 this courtroom to know I'm not a malicious monster with
23 no integrity or morals. I myself did not want to cause
24 harm to anyone or any company by my actions of
25 associating with Mr. Jha and Mr. White.

1 "I truly regret my failures to end this mess.
2 I want to thank the FBI, especially Agent Peterson, for
3 being a positive mentor through this process and by
4 going above and beyond what was expected of him. I also
5 would like to thank the Government for suggesting
6 leniency, and I promise I will never be on their radar
7 again.

8 "I would like to thank the Department of
9 Justice and the federal court system, Your Honor, for
10 appointing Mr. Nesbett as my attorney."

11 I didn't write that.

12 "He has worked tirelessly in my defense and I
13 will always be in debt to him. Lastly I would like to
14 thank you, Your Honor, for ruling today and being
15 patient with me throughout this process. I promise Your
16 Honor not to fail you, as I have failed myself. I have
17 to move on in my life.

18 "It will be an uphill struggle being a
19 convicted felon; however, my integrity has never
20 wavered. I truly know right from wrong. I just need to
21 synchronize my actions with my thoughts and with what my
22 parents have instilled in me.

23 "I'm very fortunate to have a loving family who
24 will support me through good times and bad times, as
25 evident in the last two years. With my honor and

1 integrity still ingrained in me, I will pick up the
2 pieces of this shattered mess and make my home in New
3 Orleans proud of me one day again soon. I will put my
4 mind and my skills to a positive effort for the
5 remainder of my life.

6 "Thank you again, Your Honor, for allowing me
7 to address the Court."

8 THE COURT: Thank you very much. I appreciate
9 everybody's sentencing comments. You're probably happy
10 to know you haven't changed my initial opinion that a
11 probationary sentence for all three defendants is
12 appropriate in this case.

13 You know, you're still very young men. I'm not
14 sure you have any sense of -- hopefully you're getting
15 to have a sense of, and from your statements it seemed
16 like you're beginning to have a sense of the impact what
17 you did had on society, on companies, on people, on your
18 families, I mean, if you think about what you put your
19 families through.

20 On the other hand, you know, I got to tell you
21 you're lucky because 99 percent of the time that I
22 sentence somebody in court here, there is nobody out
23 there for them. So I hope when you go home tonight you
24 thank your families for being there for you, and I hope
25 you never put them in this situation you put them in

1 here today.

2 I am also heartened that you have developed
3 such a good relationship with Special Agent Peterson.
4 You know, in this political climate -- and this is not
5 intended to be a political statement, but a lot of times
6 you hear a lot of criticism of the FBI, but I'll tell
7 you you couldn't pick a better role model than Agent
8 Peterson, someone who served his country in the Marines,
9 continues to serve his country in the FBI.

10 And I hope you take something from that,
11 because you're young, you have a lot to give to society,
12 and, you know, you have a lot of talent and skill. I
13 hope you use it for good and not bad going forward.

14 So let me take these one at a time, and I'll
15 start as I began, with Mr. White.

16 So I'm going to impose all of the special
17 conditions that are listed, except -- with the exception
18 -- and this is going to be true for all three defendants
19 -- I'm not imposing condition number six, which is the
20 monitoring system. But I am changing number one, which
21 is the recommendation for 200 hours of community service
22 to 2500 hours of community service during this five-year
23 period of probation.

24 Pursuant to the Sentencing Reform Act of 1984
25 and considering the factors found in 18 U.S.C. 3553(a),

1 which I have already articulated, it is the judgment of
2 Court that the defendant, Josiah White, is hereby placed
3 on probation for a term of five years.

4 While on probation, the defendant shall not
5 commit another federal, state or local crime, shall not
6 possess a firearm or illegal controlled substance, and
7 shall comply with the collection of a DNA sample and
8 shall comply with the standard as well as special
9 conditions included in the judgment issued by the Court.

10 The mandatory condition of supervision as set
11 forth in 18 United States Code Section 3563(a)(5)
12 requiring the defendant to submit to drug testing is
13 suspended because there appears to be low risk of future
14 substance abuse by the defendant.

15 The Court finds that the defendant does not
16 have the ability to pay a fine. It is further ordered
17 that the defendant shall pay the United States the
18 special assessment of \$100, which shall be paid
19 immediately to the clerk of court.

20 It is further ordered the defendant shall pay
21 restitution in the amount of \$127,000 consisting of
22 \$15,000 to HyPixel, \$2,000 to Psychz Network, \$100,000
23 to Akamai. I'm batting about 800 so far. And \$10,000
24 to HostUS.

25 The restitution shall be joint and severally

1 with his co-defendants, Mr. Jha in case
2 3:17-criminal-164, and Mr. Norman in case
3 3:17-criminal-167. Any unpaid amount is to be paid
4 during the period of supervision in monthly installments
5 of not less than 10 percent of the defendant's gross
6 monthly income or \$25, whichever amount is greater.
7 Interest on the restitution shall not be waived.

8 And there was an appeal waiver; is that
9 correct?

10 MR. ALEXANDER: Yes, Your Honor.

11 THE COURT: Mr. White, as part of your
12 agreement in this case, you have given up your right to
13 appeal. Do you understand that?

14 DEFENDANT WHITE: Yes, Your Honor.

15 THE COURT: Okay. Mr. Jha, again, same two
16 changes: I'm eliminating special condition listed in
17 number six and I'm modifying condition number one to be
18 2500 hours.

19 Pursuant to the Sentencing Reform Act of 1984
20 and considering the factors found in 18 United States
21 Code Section 3553(a), it is the judgment of the Court
22 that the defendant is hereby placed on probation for a
23 term of five years, consisting of five years in case
24 3:17-criminal-163 and five years in case
25 3:17-criminal-164 to be run concurrently.

1 While on probation, the defendant shall not
2 commit another federal, state or local crime, shall not
3 possess a firearm or illegal controlled substance and
4 shall comply with the collection of a DNA sample and
5 shall comply with the standard as well as special
6 conditions included in the judgment issued by the Court.

7 The mandatory condition of supervision set
8 forth in 18 United States Code Section 3563(a)(a)
9 requiring the defendant to submit to drug testing is
10 suspended because it appears to be a low -- there
11 appears to be low risk of future substance abuse by the
12 defendant.

13 The Court finds the defendant does not have an
14 ability to pay a fine. It is further ordered the
15 defendant shall pay the United States the special
16 assessment of \$200, which shall be paid immediately to
17 the clerk of the court.

18 It is further ordered that the defendant shall
19 pay restitution in the amount of \$127,000, consisting of
20 \$15,000 to HyPixel, \$2,000 to Psychz Networks, \$100,000
21 to Akamai and \$10,000 to HostUS. The restitution shall
22 be joint and several with Josiah White, case
23 3:17-criminal-165, and Dalton Norman, case
24 3:17-criminal-167.

25 Any unpaid amount is to be paid during the

1 period of supervision and in monthly installments of not
2 less than 10 percent of the defendant's gross monthly
3 income or \$25, whichever amount is greater. Interest on
4 the restitution shall not be waived.

5 Mr. Jha, same as I mentioned in regard to
6 Mr. White, you had a waiver of your appeal rights in
7 this case, which means you don't have a right to appeal
8 my sentence. Do you understand that?

9 DEFENDANT JHA: Yes, Your Honor.

10 THE COURT: I'm sorry. There were no charges
11 to dismiss for your client?

12 MR. ALEXANDER: That's correct.

13 THE COURT: For any of them?

14 MR. ALEXANDER: I think that's correct, Judge.

15 THE COURT: While I'm doing the last one, you
16 can double-check and make sure there is no charges that
17 need to be dismissed.

18 All right. Mr. Norman, again, of the special
19 conditions I'm making the same modification. I'm not
20 requiring that you wear any monitoring, but I am
21 requiring that you do 2500 hours of community service
22 during your five-year period of probation.

23 The same -- this goes to -- same comments to
24 all three of you. You know, part of the reason is you
25 can do the community service in any way you like. Like

1 I mentioned before, you can work in a soup kitchen, you
2 can work picking up garbage, you can continue to help
3 provide with your expert assistance that can help
4 others. What's important is you understand that you
5 have an obligation to give back. You have a lot of
6 talent and skill, but it's not a one-way street.

7 Okay. Pursuant to the Sentencing Reform Act of
8 1984 and considering the found in 18 United States Code
9 Section 3553(a), it is the judgment of the Court that
10 the defendant, Dalton Norman, is hereby placed on
11 probation for a term of five years, consisting of five
12 years in case 3:17-criminal-166, and five years in case
13 3:17-criminal-167, to be run concurrently.

14 While on probation, the defendant shall not
15 commit another federal, state or local crime, shall not
16 possess a firearm or illegal controlled substance, shall
17 comply with the collection of a DNA sample and shall
18 comply with the standard as well as special conditions
19 that are included in the judgment issued by the Court.

20 The mandatory condition of supervision as set
21 forth in 18 United States Code Section 3563(a)(5)
22 requiring the defendant submit to drug testing is
23 suspended because there appears to be a low risk of
24 future substance abuse by the defendant.

25 The Court finds that the defendant does not

1 have an ability to pay a fine. It is further ordered
2 the defendant shall pay the United States the special
3 assessment of \$200, which shall be paid immediately to
4 the clerk of court.

5 It's further ordered that the defendant shall
6 pay restitution in the amount of \$115,000, consisting of
7 \$15,000 to HyPixel and \$100,000 to Akamai. The
8 restitution shall be joint and several with Josiah White
9 in case 3:17-criminal-165 and Paras Jha in case
10 3:17-criminal-164.

11 Any unpaid amount is to be paid during the
12 period of supervision in monthly installments of not
13 less than 10 percent of defendant's gross monthly income
14 or \$25, whichever amount is greater. Interest on the
15 restitution shall not be waived.

16 And I think that should take care of everything
17 unless there is anything -- I'm sorry. I forgot to
18 mention, Mr. Norman, you also in your plea agreement
19 agreed to give up your right to appeal. Do you
20 understand that?

21 DEFENDANT NORMAN: Yes.

22 THE COURT: Okay. So there are no charges to
23 dismiss?

24 MR. ALEXANDER: There aren't, Your Honor. Just
25 briefly, pursuant to the plea agreement, it was

1 previously discussed during the preliminary change of
2 plea hearings, there was a term in all of the plea
3 agreements regarding voluntary abandonment of
4 cryptocurrency seized during the course of the
5 investigation.

6 THE COURT: Actually, I do recall that. So
7 it's not a forfeiture, it's just an abandonment. Have
8 you secured that?

9 MR. ALEXANDER: Some of it I believe is in FBI
10 custody. I believe the cryptocurrency belonging to
11 Mr. Norman, some of which I believe was in the
12 attorney's custody, but all of which, pursuant to the
13 terms of the plea agreement, upon conclusion of
14 sentencing, should be voluntarily abandoned to law
15 enforcement.

16 THE COURT: Mr. Nesbett has it?

17 MR. ALEXANDER: No. Well, Mr. Nesbett -- I'm
18 not sure if Mr. Nesbett has it here physically. I think
19 that is actually in FBI New Orleans custody.

20 THE COURT: Is it just a key?

21 MR. ALEXANDER: USB thumb drive.

22 MR. NESBETT: We helped effectuate some of that
23 return at the time, but I think that went back with New
24 Orleans I believe.

25 THE COURT: So I'm a little confused. So you

1 do or don't have it all? That's kind of a yes or no.

2 MR. ALEXANDER: Your Honor, I believe that --

3 Mr. Stahl can correct me if I'm wrong -- that he has got
4 custody of --

5 MR. STAHL: My understanding is that the
6 custody has been -- it was given to FBI in Newark field
7 office, so they have that.

8 But whatever we need to do, if there is
9 anything, obviously, we'll effectuate that.

10 THE COURT: Okay. All right. So I will assume
11 that you'll close the loop on getting it transferred to
12 the Government of the cryptocurrency.

13 MR. ALEXANDER: That was all, Your Honor, just
14 consistent with the plea agreement. I have no reason to
15 believe it won't happen.

16 MR. STAHL: I have one housekeeping thing to
17 alert Your Honor. I have already spoken to the court
18 reporter. Tomorrow my office will be submitting a
19 transcript request, including the sealed proceedings, in
20 order for Your Honor to consider.

21 I believe the Government has no objection. I
22 would like to have the sealed proceedings available to
23 the Court in New Jersey, Judge Shipp, and also the U.S.
24 attorney's office and probation for Mr. Jha's sentencing
25 next week, because this cooperation is being credited

1 there as well. I think it is appropriate to do so.

2 THE COURT: Sure. So you'll get that request
3 to me.

4 MR. ALEXANDER: My understanding is that that
5 request is that it will remain under seal in New Jersey
6 as well.

7 THE COURT: The sealed portion?

8 MR. STAHL: It won't be made public. It will
9 be submitted to the parties, the Court, the assistant
10 U.S. attorney and probation.

11 THE COURT: Okay. I will sign off on that to
12 make sure that you have that available.

13 Okay. Great. Anything else?

14 MR. STAHL: No, Your Honor. Thank you very
15 much.

16 THE COURT: Mr. Nesbett?

17 MR. NESBETT: No, Your Honor.

18 MR. CURTNER: No, Your Honor. Thank you.

19 THE COURT: Mr. Alexander?

20 MR. ALEXANDER: No, Your Honor. Thank you.

21 THE COURT: All right. Thank you very much.
22 We'll be in recess.

23 Good luck, gentlemen.

24 DEPUTY CLERK: All rise. This matter is
25 adjourned. This court now stands adjourned subject to

1 call.

2 (Proceedings concluded at 3:28 p.m.)

3

4 CERTIFICATE

5 I, Sonja L. Reeves, Federal Official Court Reporter
6 in and for the United States District Court of the
7 District of Alaska, do hereby certify that the foregoing
8 transcript is a true and accurate transcript from the
original stenographic record in the above-entitled
matter and that the transcript page format is in the
conformance with the regulations of the Judicial
Conference of the United States.

9

10 Dated this 20th day of September, 2018.

11

12

13 /s/ Sonja L. Reeves
14 SONJA L. REEVES, RMR-CRR
15 FEDERAL OFFICIAL COURT REPORTER

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